

COMMITTEE ON JUDICIARY

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2449

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 13-607, Arizona Revised Statutes, is amended to
3 read:

4 13-607. Judgment of guilt and sentence document; fingerprint;
5 contents of document; recitations

6 A. At the time of sentencing a person convicted of a felony offense or
7 a violation of section 13-1802, 13-1805, 28-1381 or 28-1382, the court shall
8 execute a judgment of guilt and sentence document or minute order as
9 prescribed by this section.

10 B. The court or a person appointed by the court shall at the time of
11 sentencing and in open court permanently affix the defendant's **RIGHT INDEX**
12 fingerprint to the document or order.

13 C. The document or order shall recite all of the following in addition
14 to any information deemed appropriate by the court:

15 1. The defendant's full name and date of birth.

16 2. The name of the counsel for the defendant or, if counsel was
17 waived, the fact that the defendant knowingly, voluntarily and intelligently
18 waived the defendant's right to counsel after having been fully apprised of
19 the defendant's right to counsel.

20 3. The name, statutory citation and classification of the offense.

21 4. Whether there was a finding by the trier of fact that the offense
22 was of a dangerous or repetitive nature pursuant to section 13-703, 13-704 or
23 13-708.

24 5. Whether the basis of the finding of guilt was by trial to a jury or
25 to the court, or by plea of guilty or no contest.

26 6. That there was a knowing, voluntary and intelligent waiver of the
27 right to a jury trial if the finding of guilt was based on a trial to the
28 court.

1 7. That there was a knowing, voluntary and intelligent waiver of all
2 pertinent rights if the finding of guilt was based on a plea of guilty or no
3 contest.

4 8. A certification by the court or the clerk of the court that at the
5 time of sentencing and in open court the defendant's RIGHT INDEX fingerprint
6 was permanently affixed to the document or order.

7 D. The document or order shall be made a permanent part of the public
8 records of the court, and the recitations contained in the document or order
9 are prima facie evidence of the facts stated in the recitations.

10 E. IF THE SUPREME COURT HAS AUTHORIZED THE CLERK OF THE COURT TO
11 MAINTAIN AN ELECTRONIC COURT RECORD, THE CLERK MAY MAINTAIN ONLY AN
12 ELECTRONIC REPRODUCTION OR IMAGE OF THE ORIGINAL DOCUMENT OR ORDER.

13 Sec. 2. Section 13-3903, Arizona Revised Statutes, is amended to read:

14 13-3903. Notice to appear and complaint

15 A. In any case in which a person is arrested for ~~an offense that is~~ a
16 misdemeanor OFFENSE or a petty offense, the arresting officer may release the
17 arrested person from custody in lieu of taking ~~such~~ THE person to ~~the police~~
18 ~~station~~ A LAW ENFORCEMENT FACILITY by use of the procedure prescribed in this
19 section.

20 B. At any time after taking a person arrested for ~~an offense that is~~ a
21 misdemeanor OFFENSE or a petty offense to ~~the police station~~ A LAW
22 ENFORCEMENT FACILITY, the arresting officer ~~may~~, instead of taking ~~such~~ THE
23 person to a magistrate, MAY release ~~such~~ THE person from further custody by
24 use of the procedure prescribed in this section.

25 C. IF A PERSON IS ARRESTED FOR A MISDEMEANOR OFFENSE OR A PETTY
26 OFFENSE AND THE OFFENSE IS LISTED IN SECTION 41-1750, SUBSECTION C, THE
27 PERSON SHALL NOT BE RELEASED PURSUANT TO THIS SECTION UNTIL THE PERSON
28 PROVIDES A RIGHT INDEX FINGERPRINT TO THE ARRESTING AGENCY. THE ARRESTING
29 AGENCY SHALL PROVIDE TO THE ARRESTED PERSON A MANDATORY FINGERPRINT
30 COMPLIANCE FORM THAT INCLUDES INSTRUCTIONS ON REPORTING FOR TEN-PRINT
31 FINGERPRINTING, INCLUDING AVAILABLE TIMES AND LOCATIONS FOR REPORTING FOR
32 TEN-PRINT FINGERPRINTING.

1 ~~G.~~ D. In any case in which a person is arrested for ~~an offense that~~
2 ~~is~~ a misdemeanor OFFENSE or a petty offense, the arresting officer may
3 prepare in quadruplicate a written notice to appear and complaint, containing
4 the name and address of ~~such~~ THE person, the offense charged, and the time
5 and place where and when ~~such~~ THE person shall appear in court, provided:

6 1. The time specified in the notice to appear is at least five days
7 after arrest.

8 2. The place specified in the notice shall be the court specified in
9 section 13-3898.

10 3. The arrested person, in order to secure release as provided in this
11 section, shall give his written promise so to appear in court by signing at
12 least one copy of the written notice and complaint prepared by the arresting
13 officer. The officer shall deliver a copy of the notice and complaint to the
14 person promising to appear. Thereupon, the officer shall forthwith release
15 the person arrested from custody.

16 4. The officer ~~shall~~, as soon as practical, SHALL deliver the original
17 notice and complaint to the magistrate specified therein. Thereupon, the
18 magistrate shall promptly file the notice and complaint and enter it into the
19 docket of the court.

20 ~~D.~~ E. The Arizona traffic ticket and complaint may be utilized not
21 only for the purposes provided ~~in the~~ BY Arizona supreme court rule, but to
22 satisfy the requirements of this section.

23 ~~E.~~ F. When a person has given his written promise to appear in court
24 upon a designated date pursuant to this section, and thereafter fails to
25 appear, personally or by counsel, on or before that date, the ~~magistrate~~
26 COURT CLERK OR OTHER COURT STAFF shall file a complaint, in writing, under
27 oath, setting forth the offense of ~~wilfully~~ KNOWINGLY violating a written
28 promise to appear in court in accordance with section 13-3904, and THE
29 MAGISTRATE shall issue a warrant of arrest thereon. Upon such person's
30 appearance in court for arraignment on the charge of violating section
31 13-3904, ~~such magistrate~~ THE COURT shall also arraign ~~such~~ THE person on the

1 charge stated in the notice to appear and complaint for which ~~such~~ THE person
2 had previously promised to appear.

3 ~~F. G. Nothing in~~ This section ~~shall be construed to~~ DOES NOT affect a
4 peace officer's authority to conduct an otherwise lawful search incident to
5 his arrest even though ~~such~~ THE arrested person is released before being
6 taken to the police station or before a magistrate pursuant to this section.

7 Sec. 3. Section 41-1750, Arizona Revised Statutes, is amended to read:

8 41-1750. Central state repository; department of public safety;
9 duties; funds; accounts; definitions

10 A. The department is responsible for the effective operation of the
11 central state repository in order to collect, store and disseminate complete
12 and accurate Arizona criminal history records and related criminal justice
13 information. The department shall:

14 1. Procure from all criminal justice agencies in this state accurate
15 and complete personal identification data, fingerprints, charges, process
16 control numbers and dispositions and such other information as may be
17 pertinent to all persons who have been charged with, arrested for, convicted
18 of or summoned to court as a criminal defendant for a felony offense or an
19 offense involving domestic violence as defined in section 13-3601 or a
20 violation of title 13, chapter 14 or title 28, chapter 4.

21 2. Collect information concerning the number and nature of offenses
22 known to have been committed in this state and of the legal steps taken in
23 connection with these offenses, such other information that is useful in the
24 study of crime and in the administration of criminal justice and all other
25 information deemed necessary to operate the statewide uniform crime reporting
26 program and to cooperate with the federal government uniform crime reporting
27 program.

28 3. Collect information concerning criminal offenses that manifest
29 evidence of prejudice based on race, color, religion, national origin, sexual
30 orientation, gender or disability.

1 4. Cooperate with the central state repositories in other states and
2 with the appropriate agency of the federal government in the exchange of
3 information pertinent to violators of the law.

4 5. Ensure the rapid exchange of information concerning the commission
5 of crime and the detection of violators of the law among the criminal justice
6 agencies of other states and of the federal government.

7 6. Furnish assistance to peace officers throughout this state in crime
8 scene investigation for the detection of latent fingerprints and in the
9 comparison of latent fingerprints.

10 7. Conduct periodic operational audits of the central state repository
11 and of a representative sample of other agencies that contribute records to
12 or receive criminal justice information from the central state repository or
13 through the Arizona criminal justice information system.

14 8. Establish and enforce the necessary physical and system safeguards
15 to ensure that the criminal justice information maintained and disseminated
16 by the central state repository or through the Arizona criminal justice
17 information system is appropriately protected from unauthorized inquiry,
18 modification, destruction or dissemination as required by this section.

19 9. Aid and encourage coordination and cooperation among criminal
20 justice agencies through the statewide and interstate exchange of criminal
21 justice information.

22 10. Provide training and proficiency testing on the use of criminal
23 justice information to agencies receiving information from the central state
24 repository or through the Arizona criminal justice information system.

25 11. Operate and maintain the Arizona automated fingerprint
26 identification system established pursuant to section 41-2411.

27 12. Provide criminal history record information to the fingerprinting
28 division for the purpose of screening applicants for fingerprint clearance
29 cards.

30 B. The director may establish guidelines for the submission and
31 retention of criminal justice information as deemed useful for the study or
32 prevention of crime and for the administration of criminal justice.

1 C. The chief officers of criminal justice agencies of this state or
2 its political subdivisions shall provide to the central state repository
3 fingerprints and information concerning personal identification data,
4 descriptions, crimes for which persons are arrested, process control numbers
5 and dispositions and such other information as may be pertinent to all
6 persons who have been charged with, arrested for, convicted of or summoned to
7 court as criminal defendants for felony offenses or offenses involving
8 domestic violence as defined in section 13-3601 or violations of title 13,
9 chapter 14 or title 28, chapter 4 that have occurred in this state.

10 D. The chief officers of law enforcement agencies of this state or its
11 political subdivisions shall provide to the department such information as
12 necessary to operate the statewide uniform crime reporting program and to
13 cooperate with the federal government uniform crime reporting program.

14 E. The chief officers of criminal justice agencies of this state or
15 its political subdivisions shall comply with the training and proficiency
16 testing guidelines as required by the department to comply with the federal
17 national crime information center mandates.

18 F. The chief officers of criminal justice agencies of this state or
19 its political subdivisions also shall provide to the department information
20 concerning crimes that manifest evidence of prejudice based on race, color,
21 religion, national origin, sexual orientation, gender or disability.

22 G. The director shall authorize the exchange of criminal justice
23 information between the central state repository, or through the Arizona
24 criminal justice information system, whether directly or through any
25 intermediary, only as follows:

26 1. With criminal justice agencies of the federal government, Indian
27 tribes, this state or its political subdivisions and other states, on request
28 by the chief officers of such agencies or their designated representatives,
29 specifically for the purposes of the administration of criminal justice and
30 for evaluating the fitness of current and prospective criminal justice
31 employees.

1 2. With any noncriminal justice agency pursuant to a statute,
2 ordinance or executive order that specifically authorizes the noncriminal
3 justice agency to receive criminal history record information for the purpose
4 of evaluating the fitness of current or prospective licensees, employees,
5 contract employees or volunteers, on submission of the subject's fingerprints
6 and the prescribed fee. Each statute, ordinance, or executive order that
7 authorizes noncriminal justice agencies to receive criminal history record
8 information for these purposes shall identify the specific categories of
9 licensees, employees, contract employees or volunteers, and shall require
10 that fingerprints of the specified individuals be submitted in conjunction
11 with such requests for criminal history record information.

12 3. With the board of fingerprinting for the purpose of conducting good
13 cause exceptions pursuant to section 41-619.55.

14 4. With any individual for any lawful purpose on submission of the
15 subject of record's fingerprints and the prescribed fee.

16 5. With the governor, if the governor elects to become actively
17 involved in the investigation of criminal activity or the administration of
18 criminal justice in accordance with the governor's constitutional duty to
19 ensure that the laws are faithfully executed or as needed to carry out the
20 other responsibilities of the governor's office.

21 6. With regional computer centers that maintain authorized
22 computer-to-computer interfaces with the department, that are criminal
23 justice agencies or under the management control of a criminal justice agency
24 and that are established by a statute, ordinance or executive order to
25 provide automated data processing services to criminal justice agencies
26 specifically for the purposes of the administration of criminal justice or
27 evaluating the fitness of regional computer center employees who have access
28 to the Arizona criminal justice information system and the national crime
29 information center system.

30 7. With an individual who asserts a belief that criminal history
31 record information relating to the individual is maintained by an agency or
32 in an information system in this state that is subject to this section. On

1 submission of fingerprints, the individual may review this information for
2 the purpose of determining its accuracy and completeness by making
3 application to the agency operating the system. Rules adopted under this
4 section shall include provisions for administrative review and necessary
5 correction of any inaccurate or incomplete information. The review and
6 challenge process authorized by this paragraph is limited to criminal history
7 record information.

8 8. With individuals and agencies pursuant to a specific agreement with
9 a criminal justice agency to provide services required for the administration
10 of criminal justice pursuant to that agreement if the agreement specifically
11 authorizes access to data, limits the use of data to purposes for which given
12 and ensures the security and confidentiality of the data consistent with this
13 section.

14 9. With individuals and agencies for the express purpose of research,
15 evaluative or statistical activities pursuant to an agreement with a criminal
16 justice agency if the agreement specifically authorizes access to data,
17 limits the use of data to research, evaluative or statistical purposes and
18 ensures the confidentiality and security of the data consistent with this
19 section.

20 10. With the auditor general for audit purposes.

21 11. With central state repositories of other states for noncriminal
22 justice purposes for dissemination in accordance with the laws of those
23 states.

24 12. On submission of the fingerprint card, with the department of
25 economic security to provide criminal history record information on
26 prospective adoptive parents for the purpose of conducting the preadoption
27 certification investigation under title 8, chapter 1, article 1 if the
28 department of economic security is conducting the investigation, or with an
29 agency or a person appointed by the court, if the agency or person is
30 conducting the investigation. Information received under this paragraph
31 shall only be used for the purposes of the preadoption certification
32 investigation.

1 13. With the department of economic security and the superior court for
2 the purpose of evaluating the fitness of custodians or prospective custodians
3 of juveniles, including parents, relatives and prospective guardians.
4 Information received under this paragraph shall only be used for the purposes
5 of that evaluation. The information shall be provided on submission of
6 either:

7 (a) The fingerprint card.

8 (b) The name, date of birth and social security number of the person.

9 14. On submission of a fingerprint card, provide criminal history
10 record information to the superior court for the purpose of evaluating the
11 fitness of investigators appointed under section 14-5303 or 14-5407, or
12 guardians appointed under section 14-5206.

13 15. With the supreme court to provide criminal history record
14 information on prospective fiduciaries pursuant to section 14-5651.

15 16. With the department of juvenile corrections to provide criminal
16 history record information pursuant to section 41-2814.

17 17. On submission of the fingerprint card, provide criminal history
18 record information to the Arizona peace officer standards and training board
19 or a board certified law enforcement academy to evaluate the fitness of
20 prospective cadets.

21 18. With the internet sex offender web site database established
22 pursuant to section 13-3827.

23 19. With licensees of the United States nuclear regulatory commission
24 for the purpose of determining whether an individual should be granted
25 unescorted access to the protected area of a commercial nuclear generating
26 station on submission of the subject of record's fingerprints and the
27 prescribed fee.

28 20. With the state board of education for the purpose of evaluating the
29 fitness of a certificated teacher or administrator or an applicant for a
30 teaching or an administrative certificate provided that the state board of
31 education or its employees or agents have reasonable suspicion that the
32 certificated person engaged in conduct that would be a criminal violation of

1 the laws of this state or was involved in immoral or unprofessional conduct
2 or that the applicant engaged in conduct that would warrant disciplinary
3 action if the applicant were certificated at the time of the alleged conduct.
4 The information shall be provided on the submission of either:

5 (a) The fingerprint card.

6 (b) The name, date of birth and social security number of the person.

7 21. With each school district and charter school in this state. The
8 state board of education and the state board for charter schools shall
9 provide the department of public safety with a current list of ~~electronic~~
10 e-mail addresses for each school district and charter school in this state
11 and shall periodically provide the department of public safety with updated
12 ~~electronic~~ e-mail addresses. If the department of public safety is notified
13 that a person who is required to have a fingerprint clearance card to be
14 employed by or to engage in volunteer activities at a school district or
15 charter school has been arrested ~~FOR~~ or convicted of an offense listed in
16 section 41-1758.03, subsection B or has been arrested ~~FOR~~ or convicted of an
17 offense that amounts to unprofessional conduct under section 15-550, the
18 department of public safety shall notify each school district and charter
19 school in this state that the person's fingerprint clearance card has been
20 suspended or revoked.

21 22. With the child protective services division of the department of
22 economic security as provided by law, which currently is the Adam Walsh child
23 protection and safety act of 2006~~,~~ (42 United States Code section 16961),
24 for the purposes of investigating or responding to reports of child abuse,
25 neglect or exploitation. Information received pursuant to this paragraph
26 from the national crime information center, the interstate identification
27 index and the Arizona criminal justice information system network shall only
28 be used for the purposes of investigating or responding as prescribed in this
29 paragraph. The information shall be provided on submission to the department
30 of public safety of either:

31 (a) The fingerprints of the person being investigated.

32 (b) The name, date of birth and social security number of the person.

1 H. The director shall adopt rules necessary to execute this section.

2 I. The director, in the manner prescribed by law, shall remove and
3 destroy records that the director determines are no longer of value in the
4 detection or prevention of crime.

5 J. The director shall establish a fee in an amount necessary to cover
6 the cost of federal noncriminal justice fingerprint processing for criminal
7 history record information checks that are authorized by law for noncriminal
8 justice employment, licensing or other lawful purposes. An additional fee
9 may be charged by the department for state noncriminal justice fingerprint
10 processing. Fees submitted to the department for state noncriminal justice
11 fingerprint processing are not refundable.

12 K. The director shall establish a fee in an amount necessary to cover
13 the cost of processing copies of department reports, eight by ten inch black
14 and white photographs or eight by ten inch color photographs of traffic
15 accident scenes.

16 L. Except as provided in subsection O of this section, each agency
17 authorized by this section may charge a fee, in addition to any other fees
18 prescribed by law, in an amount necessary to cover the cost of state and
19 federal noncriminal justice fingerprint processing for criminal history
20 record information checks that are authorized by law for noncriminal justice
21 employment, licensing or other lawful purposes.

22 M. A fingerprint account within the records processing fund is
23 established for the purpose of separately accounting for the collection and
24 payment of fees for noncriminal justice fingerprint processing by the
25 department. Monies collected for this purpose shall be credited to the
26 account, and payments by the department to the United States for federal
27 noncriminal justice fingerprint processing shall be charged against the
28 account. Monies in the account not required for payment to the United States
29 shall be used by the department in support of the department's noncriminal
30 justice fingerprint processing duties. At the end of each fiscal year, any
31 balance in the account not required for payment to the United States or to

1 support the department's noncriminal justice fingerprint processing duties
2 reverts to the state general fund.

3 N. A records processing fund is established for the purpose of
4 separately accounting for the collection and payment of fees for department
5 reports and photographs of traffic accident scenes processed by the
6 department. Monies collected for this purpose shall be credited to the fund
7 and shall be used by the department in support of functions related to
8 providing copies of department reports and photographs. At the end of each
9 fiscal year, any balance in the fund not required for support of the
10 functions related to providing copies of department reports and photographs
11 reverts to the state general fund.

12 O. The department of economic security may pay from appropriated
13 monies the cost of federal fingerprint processing or federal criminal history
14 record information checks that are authorized by law for employees and
15 volunteers of the department, guardians pursuant to section 46-134,
16 subsection A, paragraph 15, the licensing of foster parents or the
17 certification of adoptive parents.

18 P. The director shall adopt rules that provide for:

- 19 1. The collection and disposition of fees pursuant to this section.
20 2. The refusal of service to those agencies that are delinquent in
21 paying these fees.

22 Q. The director shall ensure that the following limitations are
23 observed regarding dissemination of criminal justice information obtained
24 from the central state repository or through the Arizona criminal justice
25 information system:

- 26 1. Any criminal justice agency that obtains criminal justice
27 information from the central state repository or through the Arizona criminal
28 justice information system assumes responsibility for the security of the
29 information and shall not secondarily disseminate this information to any
30 individual or agency not authorized to receive this information directly from
31 the central state repository or originating agency.

1 2. Dissemination to an authorized agency or individual may be
2 accomplished by a criminal justice agency only if the dissemination is for
3 criminal justice purposes in connection with the prescribed duties of the
4 agency and not in violation of this section.

5 3. Criminal history record information disseminated to noncriminal
6 justice agencies or to individuals shall be used only for the purposes for
7 which it was given. Secondary dissemination is prohibited unless otherwise
8 authorized by law.

9 4. The existence or nonexistence of criminal history record
10 information shall not be confirmed to any individual or agency not authorized
11 to receive the information itself.

12 5. Criminal history record information to be released for noncriminal
13 justice purposes to agencies of other states shall only be released to the
14 central state repositories of those states for dissemination in accordance
15 with the laws of those states.

16 6. Criminal history record information shall be released to
17 noncriminal justice agencies of the federal government pursuant to the terms
18 of the federal security clearance information act (P.L. 99-169).

19 R. This section and the rules adopted under this section apply to all
20 agencies and individuals collecting, storing or disseminating criminal
21 justice information processed by manual or automated operations if the
22 collection, storage or dissemination is funded in whole or in part with
23 monies made available by the law enforcement assistance administration after
24 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
25 all agencies that interact with or receive criminal justice information from
26 or through the central state repository and through the Arizona criminal
27 justice information system.

28 S. This section does not apply to criminal history record information
29 contained in:

30 1. Posters, arrest warrants, announcements or lists for identifying or
31 apprehending fugitives or wanted persons.

1 2. Original records of entry such as police blotters maintained by
2 criminal justice agencies, compiled chronologically and required by law or
3 long-standing custom to be made public if these records are organized on a
4 chronological basis.

5 3. Transcripts or records of judicial proceedings if released by a
6 court or legislative or administrative proceedings.

7 4. Announcements of executive clemency or pardon.

8 5. Computer databases, other than the Arizona criminal justice
9 information system, that are specifically designed for community notification
10 of an offender's presence in the community pursuant to section 13-3825 or for
11 public informational purposes authorized by section 13-3827.

12 T. Nothing in this section prevents a criminal justice agency from
13 disclosing to the public criminal history record information that is
14 reasonably contemporaneous to the event for which an individual is currently
15 within the criminal justice system, including information noted on traffic
16 accident reports concerning citations, blood alcohol tests, ~~intoxilyzer tests~~
17 or arrests made in connection with the traffic accident being investigated.

18 U. In order to ensure that complete and accurate criminal history
19 record information is maintained and disseminated by the central state
20 repository:

21 1. The arresting authority shall take legible TEN-PRINT fingerprints
22 of all persons WHO ARE arrested for offenses ~~specified~~ LISTED in subsection C
23 of this section ~~and,~~ INCLUDING PERSONS WHO ARE ARRESTED AND RELEASED PURSUANT
24 TO SECTION 13-3903, SUBSECTION C. THE ARRESTING AUTHORITY MAY TRANSFER AN
25 ARRESTEE TO A BOOKING AGENCY FOR TEN-PRINT FINGERPRINTING. THE ARRESTING
26 AUTHORITY OR BOOKING AGENCY SHALL OBTAIN A PROCESS CONTROL NUMBER AND PROVIDE
27 TO THE PERSON FINGERPRINTED A DOCUMENT THAT INDICATES PROOF OF THE
28 FINGERPRINTING AND THAT INFORMS THE PERSON THAT THE DOCUMENT MUST BE
29 PRESENTED TO THE COURT.

30 2. THE MANDATORY FINGERPRINT COMPLIANCE FORM SHALL CONTAIN THE
31 FOLLOWING INFORMATION:

32 (a) WHETHER TEN-PRINT FINGERPRINTS HAVE BEEN OBTAINED FROM THE PERSON.

1 (b) WHETHER A PROCESS CONTROL NUMBER WAS OBTAINED.

2 (c) THE OFFENSE OR OFFENSES FOR WHICH THE PROCESS CONTROL NUMBER WAS
3 OBTAINED.

4 (d) ANY REPORT NUMBER OF THE ARRESTING AUTHORITY.

5 (e) INSTRUCTIONS ON REPORTING FOR TEN-PRINT FINGERPRINTING, INCLUDING
6 AVAILABLE TIMES AND LOCATIONS FOR REPORTING FOR TEN-PRINT FINGERPRINTING.

7 (f) INSTRUCTIONS THAT DIRECT THE PERSON TO PROVIDE THE FORM TO THE
8 COURT AT THE PERSON'S NEXT COURT APPEARANCE.

9 3. Within ten days ~~of the arrest~~ AFTER A PERSON IS FINGERPRINTED, the
10 arresting authority OR AGENCY THAT TOOK THE FINGERPRINTS shall forward the
11 fingerprints to the department in the manner or form required by the
12 department.

13 4. On the issuance ~~and service~~ of a summons for a defendant who is
14 charged with ~~a felony offense, a violation of title 13, chapter 14 or title~~
15 ~~28, chapter 4 or a domestic violence offense as defined in section 13-3601,~~
16 ~~the court shall order that~~ AN OFFENSE LISTED IN SUBSECTION C OF THIS SECTION,
17 THE SUMMONS SHALL DIRECT the defendant ~~be fingerprinted by~~ TO PROVIDE
18 TEN-PRINT FINGERPRINTS TO the appropriate law enforcement agency ~~and that the~~
19 ~~defendant appear at a designated time and place for fingerprinting.~~

20 5. At the initial appearance or on the arraignment of a summoned
21 defendant who is charged with ~~a felony offense, a violation of title 13,~~
22 ~~chapter 14 or title 28, chapter 4 or a domestic violence offense as defined~~
23 ~~in section 13-3601~~ AN OFFENSE LISTED IN SUBSECTION C OF THIS SECTION, IF THE
24 PERSON DOES NOT PRESENT A COMPLETED MANDATORY FINGERPRINT COMPLIANCE FORM TO
25 THE COURT OR IF THE COURT HAS NOT RECEIVED THE PROCESS CONTROL NUMBER, the
26 court shall order that WITHIN TWENTY CALENDAR DAYS the defendant be TEN-PRINT
27 fingerprinted at a designated time and place by the appropriate law
28 enforcement agency ~~if the court has reasonable cause to believe that the~~
29 ~~defendant was not previously fingerprinted.~~

30 6. IF THE DEFENDANT FAILS TO PRESENT A COMPLETED MANDATORY FINGERPRINT
31 COMPLIANCE FORM OR IF THE COURT HAS NOT RECEIVED THE PROCESS CONTROL NUMBER,
32 THE COURT, ON ITS OWN MOTION, MAY REMAND THE DEFENDANT INTO CUSTODY FOR

1 TEN-PRINT FINGERPRINTING. IF OTHERWISE ELIGIBLE FOR RELEASE, THE DEFENDANT
2 SHALL BE RELEASED FROM CUSTODY AFTER BEING TEN-PRINT FINGERPRINTED.

3 ~~2.~~ 7. In every criminal case in which the defendant is incarcerated
4 or fingerprinted as a result of the charge, an originating law enforcement
5 agency or prosecutor, within forty days of the disposition, shall advise the
6 central state repository of all dispositions concerning the termination of
7 criminal proceedings against an individual arrested for an offense specified
8 in subsection C of this section. This information shall be submitted on a
9 form or in a manner required by the department.

10 ~~3.~~ 8. Dispositions resulting from formal proceedings in a court
11 having jurisdiction in a criminal action against an individual who is
12 arrested for an offense specified in subsection C of this section or section
13 8-341, subsection T shall be reported to the central state repository within
14 forty days of the date of the disposition. This information shall be
15 submitted on a form or in a manner specified by rules approved by the supreme
16 court.

17 ~~4.~~ 9. The state department of corrections or the department of
18 juvenile corrections, within forty days, shall advise the central state
19 repository that it has assumed supervision of a person convicted of an
20 offense specified in subsection C of this section or section 8-341,
21 subsection T. The state department of corrections or the department of
22 juvenile corrections shall also report dispositions that occur thereafter to
23 the central state repository within forty days of the date of the
24 dispositions. This information shall be submitted on a form or in a manner
25 required by the department of public safety.

26 ~~5.~~ 10. Each criminal justice agency shall query the central state
27 repository before dissemination of any criminal history record information to
28 ensure the completeness of the information. Inquiries shall be made before
29 any dissemination except in those cases in which time is of the essence and
30 the repository is technically incapable of responding within the necessary
31 time period. If time is of the essence, the inquiry shall still be made and
32 the response shall be provided as soon as possible.

1 V. The director shall adopt rules specifying that any agency that
2 collects, stores or disseminates criminal justice information that is subject
3 to this section shall establish effective security measures to protect the
4 information from unauthorized access, disclosure, modification or
5 dissemination. The rules shall include reasonable safeguards to protect the
6 affected information systems from fire, flood, wind, theft, sabotage or other
7 natural or man-made hazards or disasters.

8 W. The department shall make available to agencies that contribute to,
9 or receive criminal justice information from, the central state repository or
10 through the Arizona criminal justice information system a continuing training
11 program in the proper methods for collecting, storing and disseminating
12 information in compliance with this section.

13 X. Nothing in this section creates a cause of action or a right to
14 bring an action including an action based on discrimination due to sexual
15 orientation.

16 Y. For the purposes of this section:

17 1. "Administration of criminal justice" means performance of the
18 detection, apprehension, detention, pretrial release, posttrial release,
19 prosecution, adjudication, correctional supervision or rehabilitation of
20 criminal offenders. Administration of criminal justice includes enforcement
21 of criminal traffic offenses and civil traffic violations, including parking
22 violations, when performed by a criminal justice agency. Administration of
23 criminal justice also includes criminal identification activities and the
24 collection, storage and dissemination of criminal history record information.

25 2. "Administrative records" means records that contain adequate and
26 proper documentation of the organization, functions, policies, decisions,
27 procedures and essential transactions of the agency and that are designed to
28 furnish information to protect the rights of this state and of persons
29 directly affected by the agency's activities.

30 3. "Arizona criminal justice information system" or "system" means the
31 statewide information system managed by the director for the collection,
32 processing, preservation, dissemination and exchange of criminal justice

1 information and includes the electronic equipment, facilities, procedures and
2 agreements necessary to exchange this information.

3 4. "Central state repository" means the central location within the
4 department for the collection, storage and dissemination of Arizona criminal
5 history records and related criminal justice information.

6 5. "Criminal history record information" and "criminal history record"
7 means information that is collected by criminal justice agencies on
8 individuals and that consists of identifiable descriptions and notations of
9 arrests, detentions, indictments and other formal criminal charges, and any
10 disposition arising from those actions, sentencing, formal correctional
11 supervisory action and release. Criminal history record information and
12 criminal history record do not include identification information to the
13 extent that the information does not indicate involvement of the individual
14 in the criminal justice system or information relating to juveniles unless
15 they have been adjudicated as adults.

16 6. "Criminal justice agency" means either:

17 (a) A court at any governmental level with criminal or equivalent
18 jurisdiction, including courts of any foreign sovereignty duly recognized by
19 the federal government.

20 (b) A government agency or subunit of a government agency that is
21 specifically authorized to perform as its principal function the
22 administration of criminal justice pursuant to a statute, ordinance or
23 executive order and that allocates more than fifty per cent of its annual
24 budget to the administration of criminal justice. This subdivision includes
25 agencies of any foreign sovereignty duly recognized by the federal
26 government.

27 7. "Criminal justice information" means information that is collected
28 by criminal justice agencies and that is needed for the performance of their
29 legally authorized and required functions, such as criminal history record
30 information, citation information, stolen property information, traffic
31 accident reports, wanted persons information and system network log searches.

1 Criminal justice information does not include the administrative records of a
2 criminal justice agency.

3 8. "Disposition" means information disclosing that a decision has been
4 made not to bring criminal charges or that criminal proceedings have been
5 concluded or information relating to sentencing, correctional supervision,
6 release from correctional supervision, the outcome of an appellate review of
7 criminal proceedings or executive clemency.

8 9. "Dissemination" means the written, oral or electronic communication
9 or transfer of criminal justice information to individuals and agencies other
10 than the criminal justice agency that maintains the information.
11 Dissemination includes the act of confirming the existence or nonexistence of
12 criminal justice information.

13 10. "Management control":

14 (a) Means the authority to set and enforce:

15 (i) Priorities regarding development and operation of criminal justice
16 information systems and programs.

17 (ii) Standards for the selection, supervision and termination of
18 personnel involved in the development of criminal justice information systems
19 and programs and in the collection, maintenance, analysis and dissemination
20 of criminal justice information.

21 (iii) Policies governing the operation of computers, circuits and
22 telecommunications terminals used to process criminal justice information to
23 the extent that the equipment is used to process, store or transmit criminal
24 justice information.

25 (b) Includes the supervision of equipment, systems design, programming
26 and operating procedures necessary for the development and implementation of
27 automated criminal justice information systems.

28 11. "Process control number" means the Arizona automated fingerprint
29 identification system number that attaches to each arrest event at the time
30 of fingerprinting and that is assigned to the arrest fingerprint card,
31 disposition form and other pertinent documents.

1 12. "Secondary dissemination" means the dissemination of criminal
2 justice information from an individual or agency that originally obtained the
3 information from the central state repository or through the Arizona criminal
4 justice information system to another individual or agency.

5 13. "Sexual orientation" means consensual homosexuality or
6 heterosexuality.

7 14. "Subject of record" means the person who is the primary subject of
8 a criminal justice record.

9 Sec. 4. Effective date

10 This act is effective from and after December 31, 2009."

11 Amend title to conform

and, as so amended, it do pass

ADAM DRIGGS
Chairman

2449-se-jud
3/5/09
H:jjb

2449ad
03/03/2009
11:33 AM
C: sp